

MISSOURI COURT OF APPEALS WESTERN DISTRICT

=====

COMPLETE TITLE OF CASE

THE PUBLIC SCHOOL RETIREMENT SYSTEM OF MISSOURI,

Respondent,

v.

SCOTT TAVEAU,

Appellant.

DOCKET NUMBER WD71213

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 23, 2010

Appeal from

The Circuit Court of Cole County, Missouri
The Honorable Patricia S. Joyce, Judge

APPELLATE JUDGES

Division Three: Karen King Mitchell, Presiding Judge, Mark D. Pfeiffer and Cynthia L. Martin,
Judges

ATTORNEYS

Allen D. Allred and Lawrence C. Friedman
St. Louis, MO

Attorneys for Respondent,

Roger G. Brown and Kent L. Brown
Jefferson City, MO

Attorneys for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

THE PUBLIC SCHOOL RETIREMENT)
SYSTEM OF MISSOURI,)
)
Respondent,)
v.)
)
SCOTT TAVEAU,)
)
Appellant.)

WD71213

Cole County

Before Division Three Judges: Karen King Mitchell, Presiding Judge, Mark D. Pfeiffer and Cynthia L. Martin, Judges

Scott Taveau appeals the Circuit Court of Cole County's grant of summary judgment in favor of The Public School Retirement System of Missouri (PSRS) on its declaratory judgment petition. In PSRS's petition, it had sought a declaration that Taveau was not entitled to retirement benefits because he had not actually retired or had otherwise violated section 169.560. Taveau appealed, asserting that there were genuine issues of material fact as to whether he retired, whether he worked more than 550 hours, and whether he received in excess of 50% of his pre-retirement compensation. Taveau also contended that PSRS does not have the authority to recoup losses from him.

REVERSED AND REMANDED.

Division Three holds:

We find that the trial court erred in granting summary judgment because Taveau asserted facts supported by affidavits or testimony which contradicted PSRS's contention that Taveau had retired, had worked in excess of 550 hours, or had received more than 50% of his pre-retirement compensation. Taveau's contrary assertions are sufficient to require a trial on the merits where a fact-finder weighs the evidence.

We further find that the legislatively intended remedy for a retiree's violation of section 169.560 by exceeding 550 hours of work or receiving excessive compensation is a discontinuance of benefits from the point in time when the retiree broke the rule. Consequently, because PSRS failed to identify with specificity the point in time when Taveau exceeded the compensation or hour limits established by section 169.560, PSRS did not establish facts which would have enabled the trial court to rule on this issue as a matter of law.

Because we reverse and remand the matter for trial, Taveau's final point, that PSRS is without authority to recoup losses, is not ripe for our consideration, and we decline to entertain adjudication of this legal question until the parties are able to demonstrate that actual rights and liabilities have been affected.

Opinion by: Mark D. Pfeiffer, Judge

March 23, 2010

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.